

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on March 22, 2001 at 8:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Rod Bitney, Vice Chairman (R)  
Rep. Gary Matthews, Vice Chairman (D)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Roy Brown (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Dennis Himmelberger (R)  
Rep. Jim Keane (D)  
Rep. Rick Laible (R)  
Rep. Bob Lawson (R)  
Rep. John Musgrove (D)  
Rep. William Price (R)  
Rep. Allen Rome (R)  
Rep. Donald Steinbeisser (R)  
Rep. Brett Tramelli (D)  
Rep. James Whitaker (R)

**Members Excused:** Rep. Carol C. Juneau (D)

**Members Absent:** None.

**Staff Present:** Gordon Higgins, Legislative Branch  
Jane Nofsinger, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB465, SB356, SB369, SB360,  
HB643, 3/19/2001  
Executive Action: SB356, HB643, SB360, SB369

HEARING ON SB360

Sponsor: SEN. MIGNON WATERMAN, SD26, HELENA

Proponents: Ben Havdahl, Montana State Coordinator, Self-Help for  
the Hard of Hearing  
Chris Kuntz, Montana Telecom Access Program  
Jim Smith, Montana Speech, Language & Hearing Assn.

Opponents: None

Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, SD26, HELENA, said the bill supplements telecommunications access for people with disabilities. She noted this included mobility impaired individuals. She said the bill formalizes the infant screening program in Montana. "If infants are screened and identified early, treatment is more successful," she said. She stated this was a one-time expenditure and the bill sets the income level for eligibility.

Proponents' Testimony:

Mr. Havdahl presented written testimony explaining the MTAP program and how the equipment would be purchase and distributed. **EXHIBIT (buh65a01)**

Ms. Kuntz said she had been working with the MTAP program since 1989 and had been the director since 1999. She said the relay service has 800 calls a month and serves 7000 people. She explained without this program this people could not make or receive a simple phone call.

Mr. Smith said there have been a lot of things the legislature hasn't been able to do this session, but this is something they can do, because the funding source is identified.

Opponents' Testimony: None

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Questions from Committee Members and Responses:

REP. LAIBLE asked what the criteria would be for hospitals to receive the equipment. Mr. Smith said if they don't have it and they need it, then they are eligible.

**REP. BOOKOUT-REINICKE** asked what the equipment cost. **Mr. Smith** said it costs between \$6-10,000.

**REP. WHITAKER** asked **Mr. Kountz** if he had a list of hospitals which needed this equipment. **Mr. Kountz** said not yet, but the fiscal note caps at \$100,000 and that should be more than enough, because most major hospitals have it and the small rural ones are the ones which need it. **Mr. Havdahl** said the DPHHS has a program in place which is voluntary and 15 have purchased the equipment. He said 50% babies are being tested now.

**Closing by Sponsor:**

**SEN. WATERMAN** said this has been an excellent program in the past and this bill clarifies in statute what can be done and what cannot be done. She said **REP. GALVIN-HALCRO** would carry the bill in the House.

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**HEARING ON SB465**

**Sponsor:** **SEN. EVE FRANKLIN, SD21, CASCADE COUNTY**

**Proponents:** John Morrison, State Auditor  
Jan Van Riper, State Auditor's Office  
Jacqueline Lenmark, AIA  
Gregg Van Horssen, State Farm  
Jon Metropolitous, NAII  
Jerome Anderson, American Council of Life Insurers  
Al Pontrelli, NAFAI  
Susan Witte, BCBS  
Page Dringman, HIAA  
Roger McGlenn, IIAM  
Keith Colbo, AFLAC & US West Health Services  
Mary Allen, Montana Benefits and Life Co.  
Don Judge, MT AFL-CIO

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. EVE FRANKLIN, SD21, CASCADE COUNTY,** said a previous bill had unintended consequences and she had been working with a group of insurance carriers to resolve the matter. The insurance privacy bill will enable Montana to comply with the federal Gramm-Leach-

Bliley Act regarding HIPA regulations. HIPA refers to the federal regulation of medical information. She presented the committee a chart and an explanation of the history of the insurance privacy act. **EXHIBIT (buh65a02)**

**Proponents' Testimony:**

**Mr. Morrison** told the committee that much personal information about a patient is no longer stored in the doctor's metal filing cabinet, but frequently is apt to be put out over the internet. Information such as name, address, telephone numbers, credit history, investments and medical events are sent and transferred over the internet. Most people do not like this, he said, and this bill will help protect people's privacy in a smart way. He said his office has held a dozen meetings with representatives of 25 groups. The bill will require written consent prior to release of medical information, and would be a "good step forward," he said.

**Ms. Van Riper** presented a "gray bill" to the committee with the amended portions printed in red. She discussed the penalty, marketing and disclosure portions of the bill. She called the disclosures "the meat of the bill" and said information cannot be released without written consent. She said an exception to this was in the case of fraud, because it does not work when investigating fraud to ask for written consent. However, the bill does allow sharing between insurers or affiliates, but not third party disclosure.

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**Ms. Denmark** said she was also speaking for Gregg Van Horssen and Jon Metropolitous and she strongly supported the bill as amended. She said the amendments were very technical and if the committee was to consider additional amendments they should do it very carefully.

**Jerome Anderson, Al Pontrelli, Susan Witte, Page Dringman, Roger McGlen, Keith Colbo, Mary Allen, and Don Judge** also appeared in support of the bill. **Mr. Judge** offered an amendment.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. GALVIN-HALCRO** asked why the bill allowed insurance companies the marketing information, but not other people. **Mr. Morrison** said the agents are responsible for meeting their clients needs

and have a responsibility to their clients to provide them the product they need.

**Closing by Sponsor:**

**SEN. FRANKLIN** closed by saying that the amendment offered by **Mr. Judge** was very technical and not everyone had signed off on it. She asked the committee if she could get back with them before they took executive action. She said the bill needed a sponsor in the House.

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**HEARING ON SB356**

**Sponsor:** SEN. DON HARGROVE, SD16, BELGRADE **EXHIBIT**(buh65a03)

**Opening Statement by Sponsor:**

**SEN. DON HARGROVE, SD16, BELGRADE**, presented an exhibit which described the one-stop licensing system. **EXHIBIT**(buh65a04)

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

**SEN. HARGROVE** asked the committee for a Do Pass. He said **REP. BROWN** will sponsor the bill on the House Floor.

**HEARING ON SB369**

**Sponsor:** SEN. BILL GLASER, SD08, HUNTLEY

**Proponents:** Gene Fenderson, Montana Joint Heavy & Highway Comm.  
Don Judge, Montana AFL-CIO  
Pat Pennington, Pennington Construction  
David Warner, Carpenter's Union

**Opponents:** Robert Throssell, Montana Technical Council  
Keith Jensen, Technical Council of Montana  
James B. Brown, architect  
Susan Dunbar Bjerke, architect

**Opening Statement by Sponsor:**

**SEN. BILL GLASER, SD08, HUNTLEY,** told the committee that he was a stockman and a contractor. He said there is sometimes a relationship between the people who design buildings and those who build them. He said because of this an independent inspection is necessary. He said this is a bill from the "little people" who have seen things they did not like. He said some of the proponents are organized labor and some are not. He told the committee the opponents are "big people."

**Proponents' Testimony:**

**Mr. Fenderson** said this was a simple bill but it goes deep. He said no industry affects the lives of Montanans more than the building industry. He said there needs to be an independent inspection, and the committee will hear this inspection costs more than the fees. He said the fees should be brought down because of the importance of inspections.

**Mr. Judge** said public dollars are spent to build public projects. He said often the architect who has the responsibility for the inspection has a relationship with the contractor. "This bill says if there is a relationship, the architect should not be the one to inspect the work," he said. He thought this would insure that quality and safety were present.

**Mr. Pennington** said he was used to inspecting every thing from the ground to the doorknob. He said the architect might be tempted to save the contractor money, and they could save \$3 per sheet on plywood and no one would know.

**Mr. Warner** presented written testimony. **EXHIBIT (buh65a05)**

**Opponents' Testimony:**

**Mr. Throssell** said architects and engineers have standards and are overseen by the board. He said if certain contractors were eliminated from bidding it would decrease the pool of individuals available to bid on the project. He also explained that architects and engineers carry errors and omissions insurance. He said that on-site, things change, and they must be dealt with. He said insurers require them to be present and the committee should remember they are dealing with professionals. He said the best

interests of any project lie ultimately with the owner, not the contractor.

**Mr. Jensen** said this is a professional ethics issue. He presented written testimony. He added that while in D.C. he heard testimony using the term "design build" which required architects and contractors to have a relationship.

**Mr. Brown** said he was opposed to the bill for several reasons. He said his firm of 10 employees was considered large and they did business with most of the contractors in the area. He said he worked with full knowledge of the owner because his decisions affected the owner. He said job site decisions need the background of all issues considered during the design phase. He also said there was more to overseeing construction than what happened on-site.

**Ms. Bjerke** said projects are put out to bid and the agency makes a choice. She said she was interested in how "relationship" was defined, because it was not clear in the bill. She said she agreed with the concept of doing everything possible to insure good inspections. She said was a small, non-incorporated business, but happened to be married to the owner of Diamond Construction.

*{Tape : 3; Side : A; Approx. Time Counter : 7.2}*

**Questions from Committee Members and Responses:**

**REP. MATTHEWS** asked what would they do in Miles City under this bill since there was only one architect in town. **SEN. GLASER** said nothing in the bill said they couldn't hire architect. **REP. MATTHEWS** asked what if the architect had a relationship with the one contractor who could do the job. **SEN. GLASER** said every job "stood alone," and was an individual contract. **SEN. GLASER** said the problem was in Helena and the original bill wasn't written this way and it targeted a male and a female in Lewis and Clark County and the actions they had taken.

**REP. LAIBLE** asked if under the current system the state or local government had the option of hiring outside consultants to review and inspect. **SEN. GLASER** said Yellowstone County did, and the owner can. He added the committee "may not understand what happens when pillow talk takes places on a job."

*{Tape : 3; Side : A; Approx. Time Counter : 16.4}*

**Closing by Sponsor:**

**SEN. GLASER** said welcome to the "cesspool of the construction community, where pennies make a difference and bad work gets done every day." He concluded by saying in Helena there is an unhealthy relationship between certain construction and architectural firms which is not in the best interest of the people of the State of Montana.

*{Tape : 3; Side : B; Approx. Time Counter : 0}*

**HEARING ON HB643**

**Sponsor:** **REP. CAROL JUNEAU, HD85, GLACIER COUNTY**

**Proponents:** **REP. FRANK SMITH, HD98 POPLAR**  
**SEN. GLENN ROUSH, SD43, GLACIER and PONDERA COUNTIES**  
**Ervin Carlson, Blackfeet Business Council**  
**Dennis Fitzpatrick, Siyeh Development, Inc.**  
**Roxanne Gorneau, Sioux Tribes**  
**Jonathan Windy Boy, Chaurma Tribal Council**  
**REP. NORMA BIXBY, HD5, LAME DEER**  
**REP. DAVE GALLIK, HD52, HELENA**  
**Debbie Smith, Natural Resources Defense Council**

**Opponents:** None

**Opening Statement by Sponsor:**

**REP. CAROL JUNEAU, HD85, GLACIER COUNTY,** said this bill would be good not only for energy development, but for economic development. It will also help an impoverished section of Montana, she said. He said the wind resource in her area is so strong that occasionally it has "blown trains off the track." The development of wind energy could revive the economy and attract industry. She noted there was 50-70% unemployment on the reservations. She said the bill targets economic incentives, and feasibility studies have identified excellent sites on the Ft. Peck and Blackfeet Reservations. She said Ft. Peck alone is thought to be able to generate enough power for a city the size of Billings. "This could be one of the pieces of the energy puzzle we are working on," she said.

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**Proponents' Testimony:**



**SEN. ROUSH** said the Blackfeet Nation has proposed a "wind farm." Last year, he said, four smaller units were put into place to aerate the sewage system. He said the wind energy generation would be very compatible with the well-run and accredited community college. He said if the project goes forward, it will not just be one or two generators but a substantial number over the years.

**Mr. Carlson** said the "wind farm" would ensure the health and safety of the tribal men, and provide them the opportunity to enhance their lives. He said these "wind farms" will create new economic opportunity for an area which is in economic crisis due to lack of jobs. "These are some of the best wind resources in the country," he said. He estimated it would be six months from the start of construction to full operation. **EXHIBIT (buh65a07)**

**Dennis Fitzpatrick** presented written testimony. **EXHIBIT (buh65a08)**

**Mr. Smith** noted the tribal governments are excluded from the federal energy production tax.

**Ms. Gorneau** presented written testimony. **EXHIBIT (buh65a09)**

**Mr. Windy Boy** stated "good words have been said here today." He commented on the high price of propane which most tribes use for energy, and said this will give the tribes an opportunity to have an innovative way for energy. "We sit across the table here," he said, "This is not a hand up or a hand out." He told the committee that with their support they would walk into the 21<sup>st</sup> Century together.

**REP. BIXBY** said this would be good not only for the tribes, but for the State of Montana. "This bill will put people to work," she said. She stated a success the for Blackfeet and Fort Peck Tribes is a success for all tribes.

**REP. GALLIK** pointed out the wind was a renewable source of energy in support of the bill.

**Ms. Smith** submitted written testimony. **EXHIBIT (buh65a10)**

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**Informational Witness:**

**Ms. McHugh, Department of Revenue**, said she was available for questions.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. KEANE** asked **REP. JUNEAU** if the bill included energy-producing devices other than wind power, and if they could build a coal-fired power plant under this bill. **REP. JUNEAU** replied the definition included other possibilities, and perhaps others could be developed.

**REP. HIMMELBERGER** said he had heard the wind generation at Livingston was too expensive to be feasible. **REP. JUNEAU** said the price has come down due to technical improvements. Under the previous systems, the wind had to blow constantly around 25 mph, and gusts could not be accommodated. Technology now can accommodate the gusts, she said. The price is down between 4-6 cents a kilowatt hour, and in some places 2 ½ cents, she said. The price of coal energy is 6.7 cents, she added.

**REP. WHITAKER** asked what the cost of a turbine is. **Mr. Fitzpatrick** said a 600 watt turbine costs \$750,000.

**Closing by Sponsor:**

**REP. JUNEAU** said this is a new creative idea for Montana and the opportunity to partner with the tribal nations. She said these "wind farms" will create jobs, food, supplies and places to live. She concluded it is pollution-free, clean and compatible with their environmental values." She said there was one amendment which clarifies when the bill is effective.

**EXECUTIVE ACTION ON SB356**

**Motion/Vote:** **REP. BOOKOUT-REINICKE** moved that **SB356 BE CONCURRED IN. Motion carried unanimously.**

**REP. BROWN** will carry this bill in the Senate.

**EXECUTIVE ACTION ON HB643**

**Motion:** **REP. JUNEAU** moved that **HB643 DO PASS.**

**Discussion:**

**Motion/Vote:** **REP. JUNEAU** moved that **HB643 DO PASS AS AMENDED. Motion carried unanimously.**

**Motion:** REP. JUNEAU moved that **HB643 DO PASS AS AMENDED.**

**Discussion:**

REP. GALLIK said REP. KEANE was concerned with the definition of the energy-producing devices, and should "wind" be specified.

REP. KEANE said that was not a concern of his.

REP. LAIBLE said the WET tax was excluded forever, and that was a long time.

CHAIRMAN MCKENNEY said the bill had plenty of time to get "fixed up" if the committee agreed with the concept.

REP. BROWN said there were several bills in progress to increase the WET tax.

REP. LAWSON said that just because they were exempt in this bill, they would not necessarily be exempt forever.

CHAIRMAN MCKENNEY said, "What the legislature gives, the legislature takes away."

**Vote:** Motion **carried unanimously.**

**EXECUTIVE ACTION ON SB465**

**Motion:** REP. GALVIN-HALCRO moved **SB465.**

**Discussion:**

**Motion:** REP. GALVIN-HALCRO moved that **SB465 BE AMENDED.**

REP. GALVIN-HALCRO withdrew her motion and the committee postponed action on the bill.

**EXECUTIVE ACTION ON SB360**

**Motion/Vote:** REP. GALLIK moved that **SB369 BE CONCURRED IN.** Motion carried 18-1 with Laible voting no.

**EXECUTIVE ACTION ON SB369**

**Motion:** REP. GALLIK moved that SB369 BE CONCURRED IN.

**Discussion:**

REP. MATTHEWS said he didn't like the bill.

REP. LAIBLE said he didn't like it either. He said, "You can also hire someone to inspect it, if you don't like it." He said the bill puts limits on those in small communities who wouldn't be able to bid.

REP. Bookout-REINICKE said it seemed the bill was about "some secret thing." "We'll be passing laws next session that republicans can't marry democrats," she said.

REP. KEANE moved to table the bill.

CHAIRMAN MCKENNEY said the committee would come back to that motion.

REP. KEANE said there had been construction problems with the Warm Springs project and, for example, one sewer pipe went nowhere. He said there were some merits to the bill.

REP. GALLIK said Helena was in an earthquake zone and if corners were cut and there were not proper inspections, it was a safety issue.

REP. MATTHEWS moved the amendments without amendment 3.

REP. BITNEY made a substitute motion to delete amendment 1, 2, and 3.

Mr. Higgins said it would then require a 3<sup>rd</sup> party inspection on all public works projects, and the substitute amendment may fall outside the title of the bill.

REP. BITNEY withdrew his substitute amendment.

CHAIRMAN MCKENNEY said the committee was back to considering REP. MATTHEWS amendment to strike amendment 3.

**Vote:** Motion carried 16-3 with Fritz, Gallik, and Musgrove voting no.

Motion/Vote: REP. MATTHEWS moved that SB369 BE CONCURRED IN AS AMENDED. Motion carried 12-7 with Bitney, Bookout-Reinicke, Juneau, Laible, Lawson, Matthews, and McKenney voting no. EXHIBIT (buh65a06)

**ADJOURNMENT**

Adjournment: 11:50 A.M.

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REP. JOE MCKENNEY, Chairman

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JANE NOFSINGER, Secretary

JM/JN

**EXHIBIT** (buh65aad)